

AMENDED IN SENATE APRIL 19, 2006

AMENDED IN SENATE MARCH 29, 2006

## SENATE BILL

**No. 1229**

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### Introduced by Senator Florez

February 6, 2006

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~~An act to amend Section 14007 of, and to add Article 5 (commencing with Section 14085) to Chapter 3 of Division 7 of the Food and Agricultural Code, relating to pesticide. An act to add Section 337k to the Penal Code, relating to horse racing.~~

#### LEGISLATIVE COUNSEL'S DIGEST

SB 1229, as amended, Florez. ~~Pesticide: notice of intent pilot program.~~ *Horse racing: advertising.*

*Existing law authorizes parimutuel wagering on horse racing. Existing law prohibits any other form of wagering or betting on the result of a horse race.*

*This bill would make it unlawful for any person to advertise, or to facilitate the advertisement of, nonparimutuel wagering on horse races. Because the bill would create a new crime, the bill would impose a state-mandated local program.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

~~Existing law provides that no person shall use or possess any pesticide designated as a restricted material for any agricultural use except under written permit of the county Agricultural Commissioner.~~

~~Existing law provides that this permit may be issued for a one-year period and that the permittee must immediately report any change in the information submitted or pertinent to the issuance of the permit.~~

~~This bill would also require Kern County permittees to indicate to the commissioner his or her preferred method of notification, as specified.~~

~~Existing regulatory law provides that an Agricultural Commissioner may require notice of intent by a permitted user at least 24 hours prior to commencing the application of a pesticide.~~

~~This bill would require, pursuant to a pilot program, that when property located in Kern County, as specified, is to be treated with a pesticide listed on the California Restricted Materials list, the property operator, an authorized representative, or the licensed pest control operator who is to apply the restricted material, to submit notice of intent to the commissioner at least 48 hours prior to the intended application. This bill would also require the Kern County Agricultural Commissioner to then notify adjacent permittees that a restricted material is scheduled to be used or applied on an adjacent property.~~

~~This bill would require a permittee, after receiving the notice, to determine whether the application will create a health risk for any person employed on property under his or her control and to take all necessary steps to protect those workers from pesticide exposure. This bill would also provide that an adjacent permittee may also confer with the applicant to suggest an agreeable alternative application plan, as specified.~~

~~This bill would provide that its provisions shall remain operative only until January 1, 2009.~~

~~Because this bill would require local officials to perform additional duties, this bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.~~

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 337k is added to the Penal Code, to*  
2     *read:*

3     337k. (a) *It is unlawful for any person to advertise, or to*  
4     *facilitate the advertisement of, nonparimutuel wagering on horse*  
5     *racers.*

6     (b) *Violation of this section is an infraction punishable by a*  
7     *fine of five hundred dollars (\$500). A second conviction for a*  
8     *violation of this section is a misdemeanor punishable by a fine of*  
9     *up to ten thousand dollars (\$10,000).*

10    SEC. 2. *No reimbursement is required by this act pursuant to*  
11    *Section 6 of Article XIII B of the California Constitution because*  
12    *the only costs that may be incurred by a local agency or school*  
13    *district will be incurred because this act creates a new crime or*  
14    *infraction, eliminates a crime or infraction, or changes the*  
15    *penalty for a crime or infraction, within the meaning of Section*  
16    *17556 of the Government Code, or changes the definition of a*  
17    *crime within the meaning of Section 6 of Article XIII B of the*  
18    *California Constitution.*

19    ~~SECTION 1. The Legislature hereby finds and declares that~~  
20    ~~the pilot program put forth in this act is intended to increase the~~  
21    ~~level of communication between members of the Kern County~~  
22    ~~farming community, to provide further information to the~~  
23    ~~Agricultural Commissioner, with the intent of reducing the risk~~  
24    ~~of pesticide drift exposure to agricultural workers and~~  
25    ~~determining if the program is effective, and, if so, whether it~~  
26    ~~should be expanded.~~

27    ~~SEC. 2. Section 14007 of the Food and Agricultural Code is~~  
28    ~~amended to read:~~

29    ~~14007. (a) Every permit that is issued under the regulations~~  
30    ~~adopted pursuant to this chapter is conditioned upon compliance~~  
31    ~~with this code and regulations adopted pursuant thereto and upon~~  
32    ~~other specified conditions that may be required to accomplish the~~  
33    ~~purposes of this chapter.~~

34    ~~(b) Any permit may be issued for a one-year period. Permits~~  
35    ~~issued for perennial agricultural plantings, nonproduction~~  
36    ~~agricultural sites, or nonagricultural sites may be issued for up to~~  
37    ~~a three-year period.~~

~~(e) Pursuant to the pilot program established in Article 5 (commencing with Section 14085) of Chapter 3 of Division 7, Kern County permittees shall indicate to the commissioner his or her preferred method of notification, so long as that method can be audited should a conflict arise.~~

~~(d) The permittee or a designated agent shall report immediately any change in the information submitted or pertinent to the issuance of a valid permit to the appropriate commissioner.~~

SEC. 3. ~~Article 5 (commencing with Section 14085) is added to Chapter 3 of Division 7 of the Food and Agricultural Code, to read:~~

~~Article 5. Pesticide Application Notification Pilot Program~~

~~14085. (a) It is the intent of the Legislature that a pilot program be established and implemented in the sections of Kern County specified in paragraphs (1) through (19), inclusive, pursuant to this article.~~

~~(1) Township or range number M30S27E. Sections 01, 12, 13, 24, 25, and 36.~~

~~(2) Township or range number M30S28E. Sections 01 through 35, inclusive.~~

~~(3) Township or range number M30S29E. Sections 03 through 36, inclusive.~~

~~(4) Township or range number M30S30E. Sections 07, 17 through 21, inclusive, and Sections 26 through 35, inclusive.~~

~~(5) Township or range number M31S27E. Section 01.~~

~~(6) Township or range number M31S28E. Sections 01 through 36, inclusive.~~

~~(7) Township or range number M31S29E. Sections 01 through 36, inclusive.~~

~~(8) Township or range number M31S30E. Sections 02 through 11, inclusive, Sections 14 through 23, inclusive, and Sections 26 through 35, inclusive.~~

~~(9) Township or range number M32S28E. Sections 01 through 05, inclusive, Sections 08 through 17, inclusive, Sections 20 through 29, inclusive and Sections 33 through 36, inclusive.~~

~~(10) Township or range number M32S29E. Sections 01 through 36, inclusive.~~

~~(11) Township or range number M23S30E. Sections 03 through 09, inclusive, Sections 16 through 20, inclusive, and Section 31.~~

~~(12) Township or range number S10N18W. Sections 03 through 09, inclusive, and Sections 16 through 19, inclusive.~~

~~(13) Township or range number S10N19W. Sections 01 through 17, inclusive, and Sections 20 through 24, inclusive.~~

~~(14) Township or range number S11N18W. Sections 03 through 10, inclusive, Sections 14 through 23, inclusive, and Sections 26 through 35, inclusive.~~

~~(15) Township or range number S11N19W. Sections 01 through 36, inclusive.~~

~~(16) Township or range number S11N20W. Sections 01, 12, and 13.~~

~~(17) Township or range number S12N19W. Sections 28 through 33, inclusive.~~

~~(18) Township or range number S12N19W. Sections 25 through 36, inclusive.~~

~~(19) Township or range number S12N20W. Sections 25, 26, 35, and 36~~

~~(b) Under the pilot program established by this article, when property located in those sections of Kern County specified in paragraphs (1) through (19), inclusive, of subdivision (a) is to be treated with a pesticide listed on the California Restricted Materials list published by the Department of Pesticide Regulation, the operator of the property, his or her authorized representative, or the licensed pest control operator who is to apply the restricted material shall submit notice of intent to the Agricultural Commissioner prior to the use of the pesticide pursuant to a permit. This notice shall be submitted to the commissioner at least 48 hours prior to the intended application.~~

~~(c) The notice shall include all of the following information:~~

~~(1) The date the intended application is to commence.~~

~~(2) The pesticide or pesticides to be used.~~

~~(3) The method of application.~~

~~(4) Emergency contact information for the applicator.~~

~~(5) A map of the property that is being treated.~~

~~14085.1. (a) When the Kern County Agricultural Commissioner receives a notice of intent pursuant to Section 14085, he or she shall notify adjacent permittees that a restricted~~

~~1 material is scheduled to be used or applied on an adjacent  
2 property. This notification shall be made to adjacent permittees  
3 whether their property lies inside or outside of those sections of  
4 Kern County specified in paragraphs (1) through (19), inclusive,  
5 of subdivision (a) of Section 14085. If an adjacent property is not  
6 currently operated by a permittee, the commissioner shall notify  
7 the prior permittee. The commissioner shall also inform the  
8 applicant as to the permittees to whom this notification was  
9 provided.~~

~~10 (b) The commissioner shall determine whether to approve,  
11 deny, or impose conditions upon the proposed pesticide  
12 application. The commissioner shall assist in resolving any  
13 dispute relating to the proposed application between the applicant  
14 and any adjacent permittee. A request for review of the  
15 commissioner's decision shall be made in accordance with  
16 Section 14009.~~

~~17 14085.2. (a) After receiving notice from the commissioner  
18 pursuant to Section 14085.1 that the application of a restricted  
19 material is to occur on an adjacent property, a permittee shall  
20 determine whether the application will create a health risk for  
21 any person employed on property under his or her control and  
22 take all necessary steps to protect those workers from pesticide  
23 exposure.~~

~~24 (b) An adjacent permittee may also confer with the applicant  
25 to suggest an agreeable alternative application plan, within the  
26 limits of the applicant's permit, that would better protect at-risk  
27 workers from pesticide exposure. If a resolution is not reached,  
28 he or she may contact the commissioner for assistance in  
29 resolving the conflict.~~

~~30 14085.3. This article shall become inoperative on January 1,  
31 2009, unless a later enacted statute deletes or extends that date.~~

~~32 SEC. 4. If the Commission on State Mandates determines that  
33 this act contains costs mandated by the state, reimbursement to  
34 local agencies and school districts for those costs shall be made  
35 pursuant to Part 7 (commencing with Section 17500) of Division  
36 4 of Title 2 of the Government Code.~~